

## Supreme Court stays new abortion measure

(eCap) The Oklahoma Supreme Court assumed original jurisdiction Monday and stayed the implementation of an abortion measure passed by lawmakers and signed by Gov. Mary Fallin earlier this year.

At issue is [SB0642](#), Sen. Greg Treat, R-Oklahoma City, and Rep. Randy Grau, R-Edmond. The bill requires any physician who performs an abortion on a child who is less than 14 years of age at the time of the abortion procedure to preserve, in accordance with rules promulgated by the State Board of Health, fetal tissue extracted during such abortion and to submit the tissue to the State Department of Health. The bill requires the State Board of Health to adopt necessary rules and establishes the rules' minimum requirements. The bill establishes that the failure of a physician to comply with any provision the bill or any rule adopted constitutes unprofessional conduct under state statutes and will result in the physician being deemed guilty of a felony.

The bill was to take effect Sunday.

Under the terms of Monday's unanimous order, the stay will last 30 days. The stay will be extended, according to the order, if the petitioner files a petition for declaratory and injunction relieve in Oklahoma County District Court. If not petition is filed, the stay will be dissolved.

The order notes the court is not expressing any opinion on the constitutionality of the measure.

The New York-based Center for Reproductive Rights challenged the constitutionality of the bill on behalf of Dr. Larry Burns, a Norman-based abortion provider. The center has successfully challenged the constitutionality of several anti-abortion measures previously signed into law. In its filings with the Supreme Court, the group argued a public interest exists that warrants the court assume original jurisdiction and that the bill violates Article 5, Section 57 of the Oklahoma Constitution, the provision known as the single-subject law.

In a hearing Oct. 13 before Supreme Court Referee Barbara Swimley, Ilene Jaroslow, representing Burns, said the Supreme Court has the discretion to assume original jurisdiction for matters of great public interest and urgency. Jaroslow said the public interest in the case is the passage of an unconstitutional law and the urgency lies in the fact the bill will take effect Nov. 1.

On the issue of violating the single-subject rule, Jaroslow said the bill amended one law and created three new laws. It also called up a number of different state agencies, including the Oklahoma State Bureau of Investigation, the State Department of Health, the Attorney General's Office and district attorneys, to write and implement new rules or take other actions.

"It flaunts the single-subject rule to claim that these four distinct and disparate laws fall under (the topic of) abortion regulations," Jaroslow told Swimley.

Jaroslow also called the bill "classic logrolling." That's because, she explained, most legislators would have supported a bill improving the prosecution of statutory rape, but in order to vote for that they also had to vote for the other provisions in the bill.

Assistant Attorney General Sarah Greenwalt countered that the urgency was the creation of the petitioner, who had waited until September to file his challenge. Greenwalt said it was part of the petitioner's "litigation strategy" to file constitutional challenges to recently passed bills shortly before they take effect, forcing courts "...to hurriedly decide the constitutionality of duly passed laws."

Greenwalt argued each provision of the bill dealt with the enforcement of laws concerning reproductive health that already are on the books. Greenwalt also disagreed that the bill potentially was an example of logrolling. To meet that definition, she said, the bill would have to have had provisions, for example, that increased certain penalties combined with funding for road improvements in a lawmaker's district.

Used and reprinted with written permission of ©2010-15 ecapitol LLC

### Quote of the Day

*"I'm asking every agency to start planning for potential spending cuts and to develop a strategy that protects essential services. It's important we get ahead of this issue as we enter a difficult budget year."*

Gov. Mary Fallin

### Index

[Bill Actions](#)  
[Calendar](#)

### Capitol News Now



A product of

**eCapitol, LLC**

PO Box 3366

OKC, OK 73101-3366

405.524.2833

[publisher@ecapitol.net](mailto:publisher@ecapitol.net)

Darwin Maxey, Publisher

Shawn Ashley, News Director

Greenwalt also noted the bill would not affect the petitioner's ability to provide abortions unless he violated existing laws regulating the procedure.

[\[LESS\]](#)

### **Weintz to leave Fallin's office, join FKG Consulting**

(eCap) Alex Weintz, Gov. Mary Fallin's communication director, will leave that post in November to lead the communications division of an Oklahoma City-based public affairs firm.

Weintz has worked with Fallin since 2007. He served as Fallin's communications director while she served as Oklahoma's Fifth Congressional District congresswoman. He worked as communications director for both of Fallin's gubernatorial campaigns and has held the same role in her office since 2011, when she was elected to her first term as the state's chief executive.

"Alex has worked closely with me for almost a decade, and I appreciate his service to my office and to the state," Fallin said in a release. "He has a great strategic mind and a knack for communicating the kind of complicated issues we deal with in state politics. I'm sad to see him go, but glad he has found an exciting opportunity in the private sector."

Weintz will lead the communications division with FKG Consulting, a public affairs firm that offers government relations and communications consulting services.

"It has been a privilege to spend the last nine years working for Mary Fallin," said Weintz. "I am extremely proud of the work she has done, both in Congress and as governor, on behalf of the people of Oklahoma. She has been an exceptional leader for this state and it was an honor to play a small role in her efforts to improve government services and increase prosperity and opportunity for all Oklahomans."

Weintz and Aaron Cooper were the original members of Fallin's communications team in 2011. Cooper, too, worked on Fallin's campaign. He left in January 2013 to join Attorney General Scott Pruitt's office.

[\[LESS\]](#)

### **Public comment changes coming to Board of Education**

(eCap) The Board of Education will change how it handles public comment by allowing members of the public to comment on non-agenda items, State Superintendent Joy Hofmeister announced Thursday.

"The idea is to be more open and consistent," Hofmeister said.

The changes to the public comment period will include an extension on the time, which was previously limited to three minutes. Those wishing to comment will now have four minutes and there will no longer be a limit on the number of people who can comment. For non-agenda items, people will be limited to three minutes and only the first three individuals to sign up for public comment will be allowed to speak.

The "first come, first serve" policy will allow the board to hear from the public without creating a time constraint for the board and the department.

"I will curtail my own comments if we need to accommodate the board's agenda but I feel it important to let people have their say," Hofmeister said.

The changes come after the much criticized policy of the previous administration where members of the public and other organizations were denied the opportunity for public comment in 2013, after being told their issues were not directly related to any action or non-action items on the board's agenda. Back then, the Oklahoma Education Association had hoped to address the state board about the testing failures that occurred prior to the end of the school year and the group Restore Oklahoma Public Education said they had comments to make about the use of Common Core.

During last week's meeting, board members also expressed a desire to streamline how the consent docket is approved; saying many of the items in the docket are not of interest to the board and are more of a local school district issue.

"We approve these because we are required to but personally I don't care about abbreviated school days," said Lawton board

Used and reprinted with written permission of ©2010-15 ecapitol LLC

member Leo Baxter.

Baxter said the previous board of education spent hours going over each individual item and having people travel to school districts to discuss it. That process was streamlined through the new board when the consent docket became a "two minute item" but it was not streamlined enough, he said. He added that the items on the consent docket create additional work and paperwork for local districts who must present these to the department and the board for approval unnecessarily.

"Some of these items should not be approved by the board," said Oklahoma City board member Bill Price.

The consent docket contains items like abbreviated school days, early release of school days, library media services and cooperative agreements for alternative education programs but most importantly, approval of emergency teaching certifications.

Board members asked that Hofmeister consider this when addressing changes with her Red Tape Taskforce, which met last week for the first time in an effort to identify wasteful spending within the department.

"The more we can do power this down the better we'd be," Baxter said.

Hofmeister agreed there is some "clean up" required.

[\[LESS\]](#)

### **OTRS unfunded liability declines, funded ratio improves**

(eCap) The unfunded liability and the funded ratio of the state's largest public retirement system improved in fiscal year 2015, according to the annual actuarial report for the Oklahoma Teachers Retirement System.

According to the system's actuary, the unfunded actuarial accrued liability of the plan decreased from \$7.2 billion at the end of fiscal year 2014 to \$6.9 billion at the end of FY2015 and its funded ratio increased from 63.2 percent to 66.6 percent.

The two numbers are considered somewhat of a measure of the relative health of the retirement system and often are focused on in discussions about reform proposals to the state's pension funds. The system had a funded ratio of just 39.6 in 1996. That number had moved upward to 49.5 percent by 2005.

"Considering that we were under 50 percent for so many years, it is good to be at 66.6 percent," said OTRS Executive Director Tom Spencer.

"We are going in the right direction," Spencer said. "The trends are all positive. Even with the sharp downturn we have seen in the markets, we are on a clear path upward."

[\[LESS\]](#)

### **Unmanned aerial vehicle and contraband found on the grounds of Oklahoma State Penitentiary this morn**

(PRESS) Oklahoma Department of Corrections Director Robert Patton Monday commended the staff at the Oklahoma State Penitentiary in McAlester for detaining an unmanned aerial vehicle (UAV) smuggling contraband over a facility wall.

At approximately 9 a.m. on duty staff noticed a UAV lying upside down on facility grounds. After making contact with the shift supervisor, it had been determined the UAV had hit the razor wire upon its ascent, causing it to lose control resulting in a crash.

According to security at the facility, the package containing the contraband was suspended under the drone with fishing line. The package contained: two - 12 inch hacksaw blades, a cellphone, a cellphone battery, a hands-free device, two packages of Newport Cigarettes, two packages of Black & Mild cigars, two tubes of super glue, a 5.3 ounce bag containing marijuana, a 0.8 ounce bag containing methamphetamine and a bag containing less than 1 gram of heroin.

Monday's attempt to smuggle contraband into a facility via UAV is the first reported incident of its kind in the state.

"I applaud and commend the quick action and diligence on the part of the staff who noticed the UAV that entered the prison grounds," said Patton. "We are continuing to take a broad approach to increasing awareness in dealing with contraband at all of

Used and reprinted with written permission of ©2010-15 ecapitol LLC

our facilities statewide. We must maintain vigilance and stay one step ahead of the game in terms of the technology being used in and around facilities. Nothing is off the table when we are talking about the safety of the public, staff and offenders being housed in our facilities."

Director Patton continued to say the DOC is aware of similar incidences in other states and has been directing training staff and security personnel at facilities to stay attentive for more attempts to use flying aircraft to smuggle contraband into facilities.

The UAV has been turned over to the DOC's Office of the Inspector General for further investigation.

[\[LESS\]](#)

## **Fallin directs agencies to make contingency plans for 10 percent cuts**

(eCap) Gov. Mary Fallin directed state agencies Monday to prepare written plans to reduce nonessential expenses by 10 percent for both the remainder of this fiscal year and for the entire 2017 fiscal year. The executive order does not mandate any spending cuts; rather, it asks agency heads to plan for potential future cuts.

"I'm asking every agency to start planning for potential spending cuts and to develop a strategy that protects essential services," said Fallin. "It's important we get ahead of this issue as we enter a difficult budget year. Families and businesses tighten their belts during lean times; our state agencies can do the same."

The written plans are due to each agency's respective Cabinet secretary by Dec. 1, according to Executive Order 2015-46. The order requires the agencies to explain how the dollars saved will be reallocated to other needs within the agency.

General Revenue Fund collections for the first quarter of FY2016, the current fiscal year, came in \$4.4 million, or 0.3 percent, below the official estimate on which state appropriations are based. Lawmakers and the governor are permitted to spend only 95 percent of the estimated revenue, creating a cushion in the event revenues decline. If revenues fall more than 5.0 percent below the estimate for too long, mandatory appropriation reductions must occur to maintain a balanced budget.

"Given the ongoing oil price challenge and resulting workforce reductions, every bit of that 5.0 percent cushion may be needed," Secretary of Finance, Administration and Information Technology Preston Doerflinger said Oct. 13 when he announced the revenue numbers for September. "Some agencies, including mine, are already discussing what spending adjustments may be necessary if a midyear budget reduction were to occur. That's not always a pleasant discussion, but it's certainly a prudent one considering the circumstances."

House Appropriations and Budget Chair Earl Sears said in September that it's not a matter of whether budget writers will have less money to work with for FY2017 but a matter of how much less they will have. "We know there's going to be a budget hole," said Sears, R-Bartlesville. "We just don't know how deep that hole is going to be."

Lawmakers and the governor had \$6.6 billion in revenue certified by the Board of Equalization to appropriate for FY2016, but they appropriated a total of \$7.2 billion. To make up the difference, lawmakers pulled cash from the state agency revolving funds, the Constitutional Reserve or Rainy Day Fund, the Unclaimed Property Fund and other sources. They also appropriated some one-time funding, such as the expected revenue from a tax amnesty program.

That means the FY2017 revenue estimate would need to increase nearly 10 percent to make up the difference between FY2016 certified revenues and what actually was appropriated to create a flat or standstill budget. Every dollar it does not increase is another shovelful of dirt from the budget hole about which Sears spoke.

The Board of Equalization, which Fallin chairs, will meet Dec. 21 to consider its first revenue estimate for FY2017. Fallin will use that figure as the starting point for her executive budget.

Also on Monday, Fallin placed a moratorium on nonessential, taxpayer-funded, out-of-state travel for all state employees. Under the order, essential travel is limited to trips that are critical to core state agency functions, maintain professional accreditation unavailable in Oklahoma, are required by the federal government or are necessary to secure or maintain federal funding.

Fallin's executive order also requires advance written notification must be given after Dec. 1 for proposed state payment of any:

- Agency, state and public employee or officer membership(s) in any private or public organization;
- Nonessential out-of-state travel for agency employees and officers that is wholly paid for by an entity other than the state, or;

Used and reprinted with written permission of ©2010-15 ecapitol LLC

- Nonemergency purchases that exceed \$10,000.

[LESS]

## **State colleges, universities hoping to improve math results with new remediation options**

(eCap) Higher education officials are hopeful an innovative approach to remediation could be the next key tool to increase the number of awarded college degrees in Oklahoma.

The State Regents for Higher Education voted unanimously Thursday to adopt changes to their assessment policy which also merges its currently existing remediation policy into the assessment policy.

Tony Hutchison, a vice chancellor of strategic planning for the regents, said the changes are intended to allow for more opportunities for schools to offer new ways students can take remedial courses, especially in mathematics.

"That (policy change) probably has more potential to drop the remediation rate than anything we've done in a long time," said Hutchison. "That allows institutions to innovate, to do some of the reforms and remediation that we have in the Complete College America (CCA) element in our plan."

The policy change comes at a time when the state has seen its remediation levels drop. At Thursday's meeting it was announced that 31,419 total students were enrolled in some level of remediation during the 2013-14 school year, marking the second consecutive school year in which the state has seen declining remediation numbers.

Hutchison hastened to call the recent results a "trend," but did say the state has now equipped itself to continue improving upon those numbers.

"Hopefully in the next few years we're going to see more movement in remediation in the right direction and it's going to affect our outcomes in terms of retention and graduation rates and really affect our CCA goals in the long run," he said.

One of the ways in which the state hopes to address remediation needs is by providing "corequisite" courses. Corequisite is a term coined by CCA to describe courses that provide both remediation and college credit hours. For example, an entry-level, three-hour math course could be expanded into a five-hour course in which half the class is essentially remediation.

"They're getting credit and they're making progress toward their degree as opposed to holding them back," said Debra Stuart, vice chancellor of educational partnerships.

Stuart gave a presentation to regents on the work of the Math Success Group, which was established in 2013. The group, she said, was charged with the directive of establishing a sustainable plan for math among the state's public colleges and universities.

"This plan was shared with many Oklahoma groups and national organizations and was found to be sound and doable," she said.

Chancellor Glen Johnson said improvements in math have been a long time target of not only CCA but of the state as well.

"Math and lack of success in the math area has been identified as one of the barriers to college completion," he said.

Stuart said part of the objectives originally identified by CCA included finding ways to increase freshman to sophomore retention and more effective completion of remediation in freshman gateway courses. Math, she said, is one of the most common roadblocks new students will face.

Last year the group held a strategic planning meeting and found five priorities for implementing their plan to improve student math outcomes. Those included:

- Holding regular local conversations between high school teachers and college faculty on curriculum alignment in mathematics and teaching persistence.
- Offering 12th grade courses for various levels and in multiple formats.
- Improving course placement with multiple assessments.
- Creating multiple pathways that are standardized by discipline.
- Reforming remediation to be more effective by improving "vertical alignment" within the institution and offering corequisite courses.

Used and reprinted with written permission of ©2010-15 ecapitol LLC

Vertical alignment, Stuart said, means ensuring that remediation efforts within the college are as effective as they can be in preparing students who take them.

"There's sometimes a disconnect between what they're learning in the remedial course and what the person teaching the first college level course expects of them," she said, "so aligning that up and having that college course connect to the next level."

Work has already begun in implementing the group's strategic plan. Aside from the regents' approval of a new assessment policy, the Higher Education Completion Conference in April included sessions about pathways in remediation.

Stuart said of the 28.7 percent of students in community colleges that only took a remedial math course, only 9.8 percent finished the first college-level course in their first year. Of the 18.3 percent at universities who only enrolled in a remedial math course, she said only 16.7 percent completed the college-level course in their first year.

[\[LESS\]](#)

---

© 2010-15 eCapitol, LLC. ALL RIGHTS RESERVED.

As provided by this agreement access to bill tracking / capitol news services is restricted to the registered User. The User shall have no right to divulge, publish, loan, give or sell any of the information provided under this agreement. Information retrieved from system may not be reproduced, transmitted, transcribed, stored in a retrieval system or translated into any language in any form by any means without the written permission of eCapitol, LLC. All other rights reserved. If a person uses a copyrighted work without permission of the rights holder, he or she is open to a charge of copyright infringement. Additional terms and conditions governing the access to and use of eCapitol website and the services and materials provided by eCapitol are set forth in the eCapitol Subscriber Agreement posted on the eCapitol website.